

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
NORTHERN DIVISION

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SALT LAKE CITY WEEKLY,

Plaintiff,

vs.

CAPT. KIM CHESHIRE, Commander,  
Cache County Jail, et al.,

Defendants.

MEMORANDUM DECISION AND  
ORDER DENYING PLAINTIFFS'  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT WITHOUT  
PREJUDICE

Case No. 1:05-CV-32 TS

This matter is before the Court for consideration of Plaintiffs' Motion for Partial Summary Judgment. Since the filing of the Motion, its status has been affected by the following events: The Motion to Consolidate this case with the related case No. 1:05-CV-20 TC has been denied.<sup>1</sup> The Magistrate Judge's ruling on several discovery motions provided that "Defendants need not respond to Plaintiffs' motion for partial summary judgment (#68) and related documents and exhibits until the time set in the new deadline

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<sup>1</sup>Docket No. 74.

for filing dispositive motions.”<sup>2</sup> The Magistrate Judge also ordered that counsel conduct a Rule 26 conference and submit a new proposed scheduling order.<sup>3</sup> Plaintiffs voluntarily dismissed the claims of two of the three Plaintiffs who filed the Motion for Partial Summary Judgment.<sup>4</sup>

At present, there is no scheduling order or deadline for the filing of dispositive motions because the parties have not yet complied with the Magistrate Judge’s Order regarding a Rule 26 conference and submission of a new proposed scheduling order. Thus, it is not possible to set a response date for the motion and any such response date would, in any event, follow the completion of fact discovery, many months in the future. Further, where two of the three plaintiffs have voluntarily dismissed all of their claims, the Court is not able to determine the effect of such dismissal, if any, on their Motion. Under these circumstances, the Court finds it is advisable to deny the Motion without prejudice.

It is therefore

ORDERED that Plaintiff’s Motion for Partial Summary Judgment (Docket No. 68) is DENIED WITHOUT PREJUDICE.

DATED January 19, 2007.

BY THE COURT:



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TED STEWART  
United States District Judge

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<sup>2</sup>Docket No. 78, at ¶ 4.

<sup>3</sup>*Id.* at ¶ 5.

<sup>4</sup>Docket Nos. 79 and 80.